



## **Documentation Required for Identification of Veterans Who are Members of an Indian Tribe**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Tribal Consultation session.

**SUMMARY:** The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) will facilitate a tribal consultation session to receive attendees' feedback regarding the information and documentation that VA may utilize for identification of veterans who are members of an Indian tribe.

**DATES:** VA will hold the virtual tribal consultation session on Thursday, April 29, 2021, from 1:00-3:00 p.m. (Eastern Time).

**ADDRESSES:** Participants can access the presentation by logging into the following link: <https://vacctraining.adobeconnect.com/occ-tribal-consultation/>; for audio, please dial 1-800-767-1750, extension 52908. Participants will interact by submitting written comments and/or questions using the chat function during the presentation. Written comments may also be submitted before May 29, 2021, by any of the following methods:

- Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments;
- Email: [tribalgovernmentconsultation@va.gov](mailto:tribalgovernmentconsultation@va.gov); or
- Mail to: Department of Veterans Affairs, Suite 915L, 810 Vermont Avenue, NW, Washington, DC 20420.

**FOR FURTHER INFORMATION CONTACT:** Please email Mr. Joseph Duran, Director for Policy, VA Office of Community Care, at [Joseph.Duran2@va.gov](mailto:Joseph.Duran2@va.gov), or contact by telephone at 303-370-1637. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Section 3002 of Pub. L. 116-315, *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* (the “Act”), amended 38 U.S.C. 1730A by prohibiting VA from collecting copayments from covered Veterans for the receipt of hospital care or medical services under laws administered by VA. Pursuant to the Act, covered Veteran means a Veteran who is catastrophically disabled, as defined by VA, or an Indian or urban Indian (as defined in section 4 of the *Indian Health Care Improvement Act* (25 U.S.C. 1603)).

Catastrophically-disabled Veterans have been exempt from certain copayments pursuant to section 1730A, since 2010, and this exemption is further implemented in VA’s copayment regulations at §§ 17.108, 17.110 and 17.111 of title 38, Code of Federal Regulations. Veterans who are Indians or urban Indians will not be eligible for copayment exemption until January 5, 2022, as section 3002 of the Act does not take effect until 1 year from the date of enactment of the Act. In order to implement section 3002 of the Act, VA must be able to identify Indian and urban Indian Veterans in VA’s system of enrollment during the registration process to assist with downstream applications for copayment billing determinations. This will be a new business process to collect official information to recognize Veterans who are Indians or urban Indians. This tribal consultation session is seeking input from tribal governments, Indians and urban Indians regarding documentation that can be used by VA’s health care system to identify those Veterans who are Indians or urban Indians (as defined in 25 U.S.C. 1603). Input received during the tribal consultation session will be evaluated and as appropriate, incorporated into any rulemaking and/or policy for copayment exemptions under 38 U.S.C. 1730A.

### **Tribal Consultation Topics**

VA seeks responses to the following questions:

1. In determining whether a Veteran is a member of an Indian tribe, could any or all of the following documentation from the Veteran provide sufficient documentation?

- Tribal Enrollment Card;
- Certificate of Degree of Indian; or
- Certificate of Indian Blood from an American Indian/Alaska Native Tribe.

2. What other information and/or documentation are available for determining if a Veteran is a member of an Indian tribe? To the extent possible, please indicate the source of the information and/or how the information and/or documentation would assist VA in determining if a Veteran is a member of an Indian tribe.

3. How should VA determine whether a Veteran is a member of an Indian tribe? In making this determination, should VA:

- Require documentation be provided by the Veteran;
- Require that the Veteran self-certify that they meet the definition; or
- Should this determination be made in some other manner?

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 29, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Jeffrey M. Martin,**

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*Office of Regulation Policy & Management,*

*Office of the Secretary,*

*Department of Veterans Affairs.*